

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
WESTERN DIVISION**

**ERIC GOMEZ**  
Plaintiff,

v.

**TODD HALL, et al.,**  
Defendants.

**Case No. 7:22-cv-992-CLM-NAD**

**ORDER OF DISMISSAL**

On September 12, 2022, the magistrate judge ordered Plaintiff Eric Gomez to pay an initial partial filing fee of \$134.86 and to return a signed Prisoner Consent Form, both within 30 days. (Doc. 5). On November 4, 2022, Gomez returned the Prisoner Consent Form (doc. 6) but failed to pay his initial partial filing fee.


On December 15, 2022, the magistrate judge again ordered Gomez to pay the initial partial filing fee and warned Gomez that the failure to comply within 14 days could result in the dismissal of this action. (Doc. 7). Gomez failed to comply or otherwise respond to the December 15 order.

So the magistrate judge entered a report, recommending that the court dismiss this case without prejudice for failure to prosecute. (Doc. 8). In the report, the magistrate judge advised Gomez of his right to file specific written objections within 14 days. (*See id.* at 2). The report and recommendation, sent to Gomez at this address of record, was returned to the court by the United States Postal Service as undeliverable and marked "Return to Sender." (Doc. 9). The Clerk had previously sent Gomez a notice warning him that his claims may be dismissed if he did not keep the court advised of his current mailing address. (Doc. 3).

Having carefully reviewed and considered de novo all the materials in the court file, including the report and recommendation, the court **ADOPTS** the magistrate judge's report and **ACCEPTS** the recommendation. So the court **DISMISSES** this case **WITHOUT PREJUDICE** for failure to prosecute.

For information on the cost of appeal, see the attached notice.

**Done and Ordered** on February 9, 2023.

  
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**COREY L. MAZE**  
UNITED STATES DISTRICT JUDGE

## United States Court of Appeals

Eleventh Circuit  
56 Forsyth Street, N.W.  
Atlanta, Georgia 30303

David J. Smith  
Clerk of Court

In Reply, Give Number  
of Case and Names of Parties

### NOTICE TO PRISONERS CONCERNING CIVIL APPEALS

The Prison Litigation Reform Act of 1995 (effective April 26, 1996) now **REQUIRES** that all prisoners pay the Court's \$500 docket fee plus \$5 filing fee (for a total of \$505) when appealing any civil judgment.

If you wish to appeal in a civil case that Act now **requires** that upon filing a notice of appeal you *either*:

- (1) Pay the total \$505 fee to the clerk of the district court from which this case arose; *or*
- (2) arrange to have a prison official certify to the district court from which the appeal arose the average monthly deposits and balances in your prison account for each of the six months preceding the filing of a notice of appeal.

If you proceed with option (2) above, the Act requires that the district court order you to pay an *initial partial fee* of at least 20% of the **greater** of either the average monthly deposits or of the average monthly balances shown in your prison account. The remainder of the total \$505 fee will thereafter be deducted from your prison account each month that your account balance exceeds \$10. Each such monthly deduction shall equal 20% of all deposits to your prison account during the previous month, until the total \$505 fee is paid. (If your prison account statement shows that you cannot pay even the required *initial partial fee*, your appeal may nevertheless proceed, BUT THE TOTAL \$505 FEE WILL BE ASSESSED AGAINST AND WILL BE DEDUCTED FROM FUTURE DEPOSITS TO YOUR PRISON ACCOUNT.)

Fees are not refundable, regardless of outcome, and deductions from your prison account will continue until the total \$505 fee is collected, even if an appeal is unsuccessful.

David J. Smith  
Clerk of Court

PLRA Notice